

AMENDED IN SENATE AUGUST 17, 2016

AMENDED IN SENATE JUNE 22, 2016

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AMENDED IN ASSEMBLY MAY 16, 2016

AMENDED IN ASSEMBLY MAY 2, 2016

AMENDED IN ASSEMBLY MARCH 18, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2818

**Introduced by Assembly ~~Member Chiu~~ *Members Chiu and
Thurmond*
(~~Coauthor: Assembly Member Thurmond~~)**

February 19, 2016

An act to amend Section 402.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 2818, as amended, Chiu. Property taxation: community land trust.

Existing law requires the county assessor to consider, when valuing real property for property taxation purposes, the effect of any enforceable restrictions to which the use of the land may be subjected, including, but not limited to, zoning, recorded contracts with governmental agencies, and various other restrictions imposed by governments.

This bill would require the county assessor to consider, when valuing real property for property taxation purposes, a contract that is a 99-year

ground lease between a community land trust, as defined, and the qualified owner, as defined, of an owner-occupied single-family dwelling or an owner-occupied unit in a multifamily dwelling and that subjects a single-family dwelling or unit in a multifamily dwelling, and the land on which the dwelling or unit is situated that is required for the convenient occupation and use of that dwelling or unit, to affordability restrictions, as defined.

By changing the manner in which county assessors assess property for property taxation purposes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.

This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 402.1 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 402.1. (a) In the assessment of land, the assessor shall consider
- 4 the effect upon value of any enforceable restrictions to which the
- 5 use of the land may be subjected. These restrictions shall include,
- 6 but are not limited to, all of the following:
- 7 (1) Zoning.
- 8 (2) Recorded contracts with governmental agencies other than
- 9 those provided in Sections 422, 422.5, and 422.7.

1 (3) Permit authority of, and permits issued by, governmental
2 agencies exercising land use powers concurrently with local
3 governments, including the California Coastal Commission and
4 regional coastal commissions, the San Francisco Bay Conservation
5 and Development Commission, and the Tahoe Regional Planning
6 Agency.

7 (4) Development controls of a local government in accordance
8 with any local coastal program certified pursuant to Division 20
9 (commencing with Section 30000) of the Public Resources Code.

10 (5) Development controls of a local government in accordance
11 with a local protection program, or any component thereof, certified
12 pursuant to Division 19 (commencing with Section 29000) of the
13 Public Resources Code.

14 (6) Environmental constraints applied to the use of land pursuant
15 to provisions of statutes.

16 (7) Hazardous waste land use restriction pursuant to Section
17 25226 of the Health and Safety Code.

18 (8) (A) A recorded conservation, trail, or scenic easement, as
19 described in Section 815.1 of the Civil Code, that is granted in
20 favor of a public agency, or in favor of a nonprofit corporation
21 organized pursuant to Section 501(c)(3) of the Internal Revenue
22 Code that has as its primary purpose the preservation, protection,
23 or enhancement of land in its natural, scenic, historical, agricultural,
24 forested, or open-space condition or use.

25 (B) A recorded greenway easement, as described in Section
26 816.52 of the Civil Code, that is granted in favor of a public
27 agency, or in favor of a nonprofit corporation organized pursuant
28 to Section 501(c)(3) of the Internal Revenue Code that has as its
29 primary purpose the developing and preserving of greenways.

30 (9) A solar-use easement pursuant to Chapter 6.9 (commencing
31 with Section 51190) of Part 1 of Division 1 of Title 5 of the
32 Government Code.

33 (10) A contract where the following apply:

34 (A) The contract is with a nonprofit corporation organized
35 pursuant to Section 501(c)(3) of the Internal Revenue Code that
36 has received a welfare exemption under Section 214.15 for
37 properties intended to be sold to low-income families who
38 participate in a special no-interest loan program.

1 (B) The contract restricts the use of the land for at least 30 years
2 to owner-occupied housing available at affordable housing cost in
3 accordance with Section 50052.5 of the Health and Safety Code.

4 (C) The contract includes a deed of trust on the property in favor
5 of the nonprofit corporation to ensure compliance with the terms
6 of the program, which has no value unless the owner fails to
7 comply with the covenants and restrictions of the terms of the
8 home sale.

9 (D) The local housing authority or an equivalent agency, or, if
10 none exists, the city attorney or county counsel, has made a finding
11 that the long-term deed restrictions in the contract serve a public
12 purpose.

13 (E) The contract is recorded and provided to the assessor.

14 (11) (A) A contract where the following apply:

15 ~~(A)~~

16 (i) The contract is a renewable 99-year ground lease between a
17 community land trust and the qualified owner of an owner-occupied
18 single-family dwelling or an owner-occupied unit in a multifamily
19 dwelling.

20 ~~(B)~~

21 (ii) The contract subjects a single-family dwelling or unit in a
22 multifamily dwelling, and the land on which the dwelling or unit
23 is situated that is leased to the qualified owner by a community
24 land trust for the convenient occupation and use of that dwelling
25 or unit, to affordability restrictions.

26 ~~(C)~~

27 (iii) One of the following public agencies or officials has made
28 a finding that the affordability restrictions in the contract serve the
29 public interest to create and preserve the affordability of residential
30 housing for persons and families of low or moderate income:

31 ~~(i)~~

32 (I) The director of the local housing authority or equivalent
33 agency.

34 ~~(ii)~~

35 (II) The county counsel.

36 ~~(iii)~~

37 (III) The director of a county housing department.

38 ~~(iv)~~

39 (IV) The city attorney.

40 ~~(v)~~

1 (V) The director of a city housing department.

2 ~~(D)~~

3 ~~(iv) The recorded instrument contract is recorded and is~~
4 ~~provided to the assessor.~~

5 ~~(E)~~

6 (B) For purposes of this section, *paragraph*, all of the following
7 definitions shall apply:

8 (i) “Affordability restrictions” mean that all of the following
9 conditions are met:

10 (I) The dwelling or unit can only be sold or resold to a qualified
11 owner to be occupied as a principal place of residence.

12 (II) The sale or resale price of the dwelling or unit is determined
13 by a formula that ensures the dwelling or unit has a purchase price
14 that is affordable to qualified owners.

15 (III) There is a purchase option for the dwelling or unit in favor
16 of a community land trust intended to preserve the dwelling or
17 unit as affordable to qualified owners.

18 (IV) The dwelling or unit is to remain affordable to qualified
19 owners by a renewable 99-year ground lease.

20 (ii) “Community land trust” means a nonprofit corporation
21 organized pursuant to Section 501(c)(3) of the Internal Revenue
22 Code that satisfies all of the following:

23 (I) Has as its primary purposes the creation and maintenance of
24 permanently affordable single-family or multifamily residences.

25 (II) All dwellings and units located on the land owned by the
26 nonprofit corporation are sold to a qualified owner to be occupied
27 as the qualified owner’s primary residence or rented to persons
28 and families of low or moderate income.

29 (III) The land owned by the nonprofit corporation, on which a
30 dwelling or unit sold to a qualified owner is situated, is leased by
31 the nonprofit corporation to the qualified owner for the convenient
32 occupation and use of that dwelling or unit for a renewable term
33 of 99 years.

34 (iii) “Limited equity housing cooperative” has the same meaning
35 as that term is defined in Section 817 of the Civil Code.

36 (iv) “Persons and families of low or moderate income” has the
37 same meaning as that term is defined in Section 50093 of the
38 Health and Safety Code.

39 (v) “Qualified owner” means persons and families of low or
40 moderate income, including persons and families of low or

1 moderate income that own a dwelling or unit collectively as
2 member occupants or resident shareholders of a limited equity
3 housing cooperative.

4 (b) There is a rebuttable presumption that restrictions will not
5 be removed or substantially modified in the predictable future and
6 that they will substantially equate the value of the land to the value
7 attributable to the legally permissible use or uses.

8 (c) Grounds for rebutting the presumption may include, but are
9 not necessarily limited to, the past history of like use restrictions
10 in the jurisdiction in question and the similarity of sales prices for
11 restricted and unrestricted land. The possible expiration of a
12 restriction at a time certain shall not be conclusive evidence of the
13 future removal or modification of the restriction unless there is no
14 opportunity or likelihood of the continuation or renewal of the
15 restriction, or unless a necessary party to the restriction has
16 indicated an intent to permit its expiration at that time.

17 (d) In assessing land with respect to which the presumption is
18 un rebutted, the assessor shall not consider sales of otherwise
19 comparable land not similarly restricted as to use as indicative of
20 value of land under restriction, unless the restrictions have a
21 demonstrably minimal effect upon value.

22 (e) In assessing land under an enforceable use restriction wherein
23 the presumption of no predictable removal or substantial
24 modification of the restriction has been rebutted, but where the
25 restriction nevertheless retains some future life and has some effect
26 on present value, the assessor may consider, in addition to all other
27 legally permissible information, representative sales of comparable
28 lands that are not under restriction but upon which natural
29 limitations have substantially the same effect as restrictions.

30 (f) For the purposes of this section the following definitions
31 apply:

32 (1) "Comparable lands" are lands that are similar to the land
33 being valued in respect to legally permissible uses and physical
34 attributes.

35 (2) "Representative sales information" is information from sales
36 of a sufficient number of comparable lands to give an accurate
37 indication of the full cash value of the land being valued.

38 (g) It is hereby declared that the purpose and intent of the
39 Legislature in enacting this section is to provide for a method of
40 determining whether a sufficient amount of representative sales

1 information is available for land under use restriction to ensure
2 the accurate assessment of that land. It is also hereby declared that
3 the further purpose and intent of the Legislature in enacting this
4 section and Section 1630 is to avoid an assessment policy which,
5 in the absence of special circumstances, considers uses for land
6 that legally are not available to the owner and not contemplated
7 by government, and that these sections are necessary to implement
8 the public policy of encouraging and maintaining effective land
9 use planning. This statute shall not be construed as requiring the
10 assessment of any land at a value less than as required by Section
11 401 or as prohibiting the use of representative comparable sales
12 information on land under similar restrictions when this information
13 is available.

14 SEC. 2. If the Commission on State Mandates determines that
15 this act contains costs mandated by the state, reimbursement to
16 local agencies and school districts for those costs shall be made
17 pursuant to Part 7 (commencing with Section 17500) of Division
18 4 of Title 2 of the Government Code.

19 SEC. 3. Notwithstanding Section 2229 of the Revenue and
20 Taxation Code, no appropriation is made by this act and the state
21 shall not reimburse any local agency for any property tax revenues
22 lost by it pursuant to this act.

23 SEC. 4. This act provides for a tax levy within the meaning of
24 Article IV of the Constitution and shall go into immediate effect.